

FILED
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

2013 JAN 25 PM 1:20

X S.D. OF N.Y.

Richard Daniele

Docket No.

Plaintiff

-against-

Media Collections, Inc. d/b/a
Joseph Mann & Creed

Defendant

13 CV 0581

X

Plaintiff, by their attorney Joseph Mauro, complaining of the Defendant respectfully alleges and show to the Court as follows:

I. INTRODUCTION

1. This is an action for damages brought by an individual consumer for violations of the Fair Debt Collection Practices Act, 15 U.S.C. 1692, et seq. (hereinafter "FDCPA") which prohibits debt collectors from engaging in abusive, deceptive and unfair practices.

2. According to 15 U.S.C. 1692:

- (a) There is abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors. Abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy.
- (b) Existing laws and procedures for redressing these injuries are inadequate to protect consumers.
- (c) Means other than misrepresentation or other abusive debt collection practices are available for the effective collection of debts.
- (d) Abusive debt collection practices are carried on to a substantial extent in interstate commerce and through means and instrumentalities of such commerce. Even where abusive debt collection practices are purely intrastate in character, they nevertheless directly affect interstate commerce.

(e) It is the purpose of this title to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses.

II. JURISDICTION AND VENUE

3. Jurisdiction of this Court arises under 15 U.S.C Section 1692k (d), 28 U.S.C Section 1337. Venue in this District is proper in that the Defendants transact business here and the conduct complained of occurred here.

III. PARTIES

4. Plaintiffs, are natural people residing in Westchester County, New York. Plaintiffs are consumer as defined by the FDCPA.

5. Defendant Media Collection Inc. is an Ohio Corporation that does business under the name, Joseph Mann & Creed. Defendant regularly engages in the business of collecting debts in this state. The principal purpose of defendant is the collection of debts using the mails and telephone, and defendant regularly attempts to collect debts alleged to be due another.

6. Defendant is a "debt collector" as defined by the FDCPA, 15 U.S.C. Section 1692a(6).

IV. FACTUAL ALLEGATIONS

7. Plaintiffs repeat paragraphs "1" through "7" as if fully restated herein.
8. Plaintiff rented an automobile while on vacation in France from a company called Skandicinkasso/Hertz ("the alleged creditor") The automobile was defective and

broke down. The alleged creditor is now attempting to charge the Plaintiff the cost of repairing the defective automobile.

9. Skandicinkasso/Hertz hired Defendant to try to collect the alleged debt.
10. On or about September 28, 2012, the Defendant sent Plaintiff the letter attached as Exhibit A.
11. Exhibit A demands that Plaintiff pay \$1,665.50 for the alleged debt.
12. Plaintiff received Exhibit A at his home, and read it.
13. Plaintiff does not owe \$1,665.50.
14. On or about October 8, 2012, Plaintiff sent Defendant a letter demanding verification of the debt.
15. On or about November 9, 2012, Defendant sent Plaintiff the letter attached as Exhibit B.
16. Plaintiff received Exhibit B at his home, and read it.
17. Exhibit B demands that Plaintiff pay \$2,772.57 for the alleged debt.
18. Plaintiff does not owe \$2,772.57.

**V. CAUSE OF ACTION UNDER THE FAIR DEBT COLLECTION
PRACTICES ACT**

19. Plaintiff repeats and re-alleges and incorporates by reference to the foregoing paragraphs.

20. Exhibit A violates 15 USC 1692 g(a) in that it incorrectly states the amount of the alleged debt.

21. Exhibit B violates 15 USC 1692e, 15 USC 1692e(2), 15 USC 1692e(5), 15 USC 1692e(10), 15 USC 1692f, and 15 USC 1692f(1) in that it seeks to add fees that are neither permissible by law nor expressly authorized by contract.

WHEREFORE, Plaintiff respectfully requests that judgment be entered against Defendants, for the following:

- A. Actual damages;
- B. Statutory damages;
- C. Costs and reasonable attorney's fees;
- D. For such other and further relief as the Court may deem just and proper.

Respectfully submitted,

Joseph Mauro (JM: 8295)
The Law Office of Joseph Mauro, LLC
306 McCall Ave.
West Islip, NY 11795

DEMAND FOR JURY TRIAL

Please take notice that Plaintiffs demand trial by jury in this action.

/s/ JOSEPH MAURO
Joseph Mauro

EXHIBIT A

20600 Chagrin Blvd., Suite 550, Shaker Heights, Ohio 44122-5340

Telephone: 216-831-5626 • Fax: 216-831-5616

Hours of operation 8:30 am - 5:30 pm EST



A Collection Agency

RE: Richard Daniele
611014567402 749/0000375/0004
Client Account #733002332

September 28, 2012

Be advised that SkandicInkasso / Hertz Autovermietung GmbH has requested that our agency collect this account.

In regard to the above-captioned account, please note the following:

- 1). SkandicInkasso / Hertz Autovermietung GmbH has forwarded your account information to our office.
- 2). They advised us that they have been in contact with you and you have not paid this account.

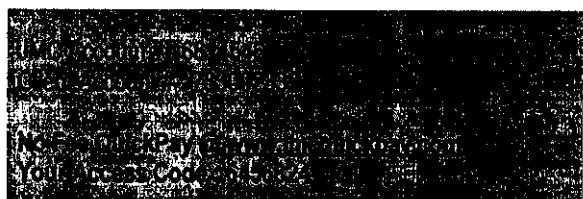
All checks should be made payable to SkandicInkasso / Hertz Autovermietung GmbH and mailed using the enclosed self-addressed envelope.

NOTICE: SEE REVERSE SIDE FOR IMPORTANT INFORMATION.

Scott Tyrry Ext. 400
ContactUs@jmcbiz.com
Enclosure

1

PLEASE DETACH THE BOTTOM PORTION AND RETURN WITH YOUR PAYMENT - RETAIN TOP PORTION FOR YOUR RECORDS

20600 CHAGRIN BLVD., STE 550
SHAKER HTS, OH 44122-5340

September 28, 2012

JMC/733002332/11 611014567402 749/0000375/0004



Richard Daniele
21 Horseshoe Hill Rd
Pound Ridge, NY 10576-1612

4836

JOSEPH, MANN & CREED
PO BOX 22253
BEACHWOOD, OH 44122-0253

This Communication is from a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request of this office in writing within 30 days after receiving this notice this office will provide you with the name and address of the original creditor, if different from the current creditor.

New York City Department of Consumer Affairs license number 1257997.

When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. [You authorize us to collect a fee of \$15.00 through an electronic fund transfer from your account if your payment is returned unpaid.]

EXHIBIT B

Joseph, Mann & Creed

20600 Chagrin Blvd Suite 550
Shaker Heights, Ohio 44122-5340
(216) 831-5626
(216) 831-5616 Fax

November 9, 2012

Richard Daniele

21 Horseshoe Hill Rd
Pound Ridge, NY 10576



Re: Richard Daniele
And Skandicinkasso

JMC File #: 6814546
Client Account #: 733002332

Amount: \$2,772.57

Dear Richard:

Please be advised that our office represents Skandicinkasso.

Per your recent request, find enclosed documentation in regard to the above-captioned debt. Make check payable to Skandicinkasso and mail it in the enclosed, self-addressed envelope. We will take no further action until November 21, 2012 pending receipt of your check.

This is an attempt to collect a debt and any information obtained will be used for that purpose. This communication is from a debt collector.

Scott Tyrity

Ext. 400

Enclosure

ContactUs@jmcbiz.com